



PA State System of Higher Education Board of Governors

Effective: July 20, 1995

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Policy 1995-02: Facilities Projects Contract Compliance Program

See Also:

Adopted: July 20, 1995

Amended:

A. Policy

On behalf of the Board of Governors, the chancellor shall administer a contract compliance program to effect the State System of Higher Education's Nondiscrimination Policy regarding equal employment opportunity with respect to contracting practices for facilities projects for the State System, its constituent institutions, and their contractors.

B. Background

Act 188 of 1982, section 20–2014-A contains the Nondiscrimination Policy for the State System. Regulations (22 Pennsylvania Code, Chapter 509) promulgate Contract Compliance requirements for administration of the Nondiscrimination Policy for contracting practices for the State System. These statutes and regulations establish the procedures for implementing the Nondiscrimination Policy within the framework of the State System's social equity plan.

C. Purpose

This policy assigns authority for administering the provisions of Act 188 of 1982, section 20–2014-A and 22 Pennsylvania Code, Chapter 509 and establishes responsibilities and procedures for implementing a contract compliance program within the State System of Higher Education for contracts for facilities projects.

D. Definitions

The definitions applicable to this policy are as contained in Act 188 of 1982 and the implementing regulations. Facilities projects include work performed by professionals for design and contract management and by craftsmen, artisans, tradesmen, journeymen, and laborers for construction, repair, renovation and maintenance of State System buildings and structures.

E. Program Administration Responsibilities

The chancellor or his/her designee shall serve as the program authority to administer a System-wide uniform Contract Compliance Program. Each university president shall be responsible to the chancellor for implementation of the Nondiscrimination and Equal Employment Opportunity Program at his/her institution. The president may designate and delegate responsibility to a qualified contract compliance officer and other staff as necessary to implement the program. Independent program examiners shall be appointed as required by the chancellor to conduct hearings for cases of noncompliance that could result in sanctions placed against professionals and contractors.

F. Procedures

1. Every State System contract shall contain or incorporate by reference the nondiscrimination clause specified in 22 Pennsylvania Code, Chapter 509.
2. Provision for ensuring contractor compliance with 22 Pennsylvania Code, Chapter 509 will be included in State System contract documents and professional agreements for facilities projects whenever the professional's or contractor's workforce exceeds ten employees and the cost of the contract exceeds \$50,000 to determine that nondiscriminatory employment practices are used by them in hiring employees.
3. For contracts of \$50,000 or less, or when the professional's or contractor's workforce does not exceed ten employees, the above information may be required to determine that nondiscrimination employment practices are used by them in the hiring of employees.
4. The information obtained shall be compared with the Department of Labor's statistical demographic data to determine whether the contractor's workforce is in compliance with expected demographic distribution.
5. When a contractor's workforce does not appear to be in conformance with the expected demographic distribution, a compliance review shall be made to determine if a good faith effort has been made to ensure nondiscrimination in their employment practices. Compliance reviews conducted by federal, municipal, or other Commonwealth agencies may be considered as having fulfilled this review. The compliance procedures in 22 Pennsylvania Code, Chapter 509 shall be used as the basis for conducting a compliance review.
6. Sanctions may be imposed upon contractors who refuse to make a good faith effort to correct discriminatory employment practices. Before sanctions are imposed, the party in violation must be offered the opportunity for a hearing before a panel of hearing examiners appointed by the chancellor. Sanctions may include contract termination, suspension, and/or debarment for up to three years from State System contracts, and recommendation for debarment from all other Commonwealth agencies' contracts.